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FILED  
U.S. DISTRICT COURT  
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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH  
CENTRAL DIVISION

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GREGG A. AND CONNIE P. HOWELL,

Plaintiff,

v.

GREEN POINT MORTGAGE FUNDING,  
INC., GMAC MORTGAGE, LLC., FLAGSHIP  
FINANCIAL GROUP AND DOES 1-100  
INCLUSIVE

Defendant.

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: MOTION TO DISMISS  
: PLAINTIFFS' COMPLAINT  
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: Judge Bruce S. Jenkins  
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: Civil No. 2:09cv00964  
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Defendant GMAC Mortgage, LLC hereby moves the Court to dismiss Plaintiffs' Complaint, for failure to comply with the provisions of Rules 8(a), 9(b) and 12(b) of the Federal Rules of Civil Procedure in that Plaintiffs' Complaint is not a short and plain statement of the claim showing that the pleader is entitled to relief, does not abate a fraud claim with particularity, and fails to state a claim upon which relief can be granted.

DATED this 1<sup>st</sup> day of December, 2009.

MOYLE & DRAPER, P.C.

By: Wayne G. Petty  
Wayne G. Petty  
Attorneys for Defendant

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **MOTION TO DISMISS PLAINTIFFS' COMPLAINT** was mailed this 1<sup>st</sup> day of December 2009, was served upon all counsel of record by placing a copy of the same in the United States Mail, postage prepaid, and sent to their last known address as follows:

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